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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,284	11/28/2000	Richard Leach Tagg		7550

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EXAMINER

ADDIE, RAYMOND W

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/724,284

Applicant(s)

TAGG, RICHARD LEACH

Examiner

Raymond W. Addie

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 38-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

1. Claims 41, 42, 54, 55 are objected to because of the following informalities:  
Line 3, of all claims, the phrase "substantially part-cylindrical" should be --part-cylindrical--; because the specification does not define "substantially part-cylindrical".  
Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 38-44, 46, 47, 51-57, 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Striefel et al. # 6,059,491 in view of Wasserstrom # 5,988,934.

Striefel et al., discloses a barrier (1) comprising:

A barrier section (10) having a comparatively narrow upright portion (26), having:

One or more corresponding projections (60, 62) and recesses (61, 63) such that each

end of the barrier has an equal number of projections and recesses. See Fig. 6.

A comparatively wide base portion (24).

A nose (60) defining a convexly curved external surface projecting from said comparatively wide base portion at a first end of said barrier.

At least one additional barrier section(s) (12, 14) identical to the at least one barrier section (10) and being mate-able with said at least one barrier section.

A cavity, (unnumbered, see figs. 1, 6) defining an external surface formed in said comparatively wide base portion at a second end of said barrier .

At least one hinge pin (64) that can be passed between said barrier section and an additional barrier section.

Said projections having a convex shape for allowing said projections to be brought up to said recesses of at least one of said additional barrier sections having a substantially identical structure to that of said 1<sup>st</sup> barrier section.

Wherein said nose and cavity have external surfaces, so that when said nose is accommodated in said cavity, said nose can be positioned in any permitted angular orientation of said barrier section. See col. 3, line 39-col. 4, line 49; Figs. 1, 6.

What Striefel et al. does not disclose is utilizing matching convex and concave surfaces of said projections and recess. However, Wasserstrom '934 teaches a barrier system of interconnected barriers (10) having narrow top portions (12) and wider base sections (14), said barriers being interconnected by at least one convex projection (38) and one

concave recess (46). Further, Wasserstrom positively recites that it is "desirable for the shape of the receptacle (46) to correspond to that of the protrusion in order to facilitate most effective connection of adjacent road barriers". See col. 4, ln. 48-col. 5, ln. 6.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the barrier system of Striefel et al. with concavely shaped recesses that correspond to that of a protrusion, as taught by Wasserstrom '934 in order to facilitate most effective connection of adjacent road barriers.

In regards to Claims 39-42, 52-55 Striefel et al. discloses the nose has a surface that is a surface of rotation for a profile of said comparatively wide base portion at a point along a length of said barrier section and that each said projection has a part cylindrical surface that is a surface of rotation. But does not disclose each said recess has a corresponding part-cylindrical surface. However Wasserstrom positively recites that it is "desirable for the shape of the receptacle (46) to correspond to that of the protrusion in order to facilitate most effective connection of adjacent road barriers". See col. 4, lns.48-col. 5, ln. 6. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the barrier system of Striefel et al. with concavely shaped recesses that correspond to that of a protrusion, as taught by Wasserstrom '934 in order to facilitate most effective connection of adjacent road barriers.

In regards to Claims 43, 44, 56, 57 Striefel et al. discloses the nose and projections of the barrier section each contain a bore hole (59) for receiving said hinge pin, for articulating said barrier section and said at least one additional barrier sections together.

In regards to Claims 46, 59 Striefel et al. discloses the narrow upright portion has at least one opening (94) in a side thereof. See Fig. 1.

In regards to claims 51 Striefel et al. discloses the opposing ends of the barrier sections comprise a male end piece (52) and a female end piece (54).

3. Claims 45, 48, 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Striefel et al. #6,059,491 in view of Wasserstrom # 5,988,934 with respect to Claim 44, as put forth above, and further in view of Smith et al. # 4,240,766.

Striefel et al. in view of Wasserstrom discloses a modular barrier system comprising: A plurality of barrier sections interconnected with hinge pins, but does not disclose using the use of a dome shaped cap for supporting the hinge pin. However, Smith et al. teaches a traffic delineator (1) comprising: A vertical post (5) supported by a generally dome-shaped base (2) recess (8) for receiving said post (5).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the traffic barrier of Striefel et al., in view of

Wasserstrom with a hinge pin support assembly, as taught by Smith et al., in order to facilitate temporary assembly of the barrier segment. See Smith et al., Col. 2, In 22-col. 3, In 17.

4. Claims 49, 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Striefel et al. '491 in view of Wasserstrom and Smith et al. '766, as put forth with respect to Claim 48 above, and further in view of Pickett # 4,111,401 and WO 97/09485, reference to Adcock.

Striefel et al. in view of Wasserstrom and Smith et al. '766 discloses a modular barrier system interconnected with an hinge assembly, but does not disclose the use of tension straps.

However, Pickett '401 teaches a barrier system (10) comprising a plurality of identical barrier sections (20), which are interconnected by disposing a tension strap (40) to encircle a male/female joint assembly, having corresponding surfaces of rotation.

Adcock teaches a barrier system comprising a plurality of barrier sections (10, 11, 12) having a plurality of grooves, disposed in a comparatively narrow upright portion of each barrier section (10, 11, 12) for receiving a tension strap (3) that crosses from one side of a barrier to a 2<sup>nd</sup> side of the barrier, such that said plurality of barrier sections are anchored to one another to form an elongated, continuous barrier.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the barrier system of Striefel et al., with a tension strap that crosses from one side of a barrier to another side of said barrier, and encircles the pivotable joint between adjacent barriers, as taught by Pickett and Adcock, in order to form a continuous anchored barrier. See Pickett Col. 4; Adcock Page 5.

### ***Response to Arguments***

5. Applicant's arguments, see page 10, Ins 2-15, filed 4/22/2004, with respect to the rejection(s) of claim(s) 1-37 under 35 U.S.C. 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Wasserstrom # 5,988,9343.

### ***Conclusion***

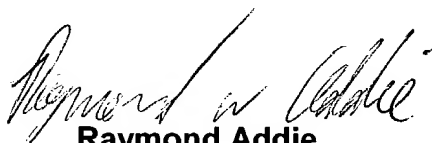
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Galiana et al. # 6,439,801 discloses a barrier having flexible connecting means.



7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond W. Addie whose telephone number is 703 305-0135. The examiner can normally be reached on 8-2, 6-8.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**Raymond Addie**  
**Patent Examiner**  
**Group 3600**

5/13/2004